

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED
DEC 04 2007
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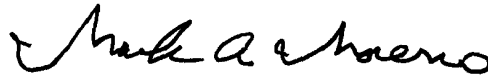
UNITED STATES OF AMERICA,	*	
	*	CR. 07-30070(01)
	*	
Plaintiff,	*	
	*	
-VS-	*	REPORT AND RECOMMENDATION
	*	FOR DISPOSITION OF DEFENDANT'S
JESSE J. EAGLE ELK, SR., a/k/a	*	MOTION TO SUPPRESS STATEMENTS
"CHOPS" EAGLE ELK,	*	AND EVIDENCE
	*	
Defendant.	*	
	*	

Defendant, Jesse J. Eagle Elk, Sr., a/k/a "Chops" Eagle Elk has filed a Motion to Suppress Statements and Evidence, Docket No. 26. Because Defendant's Motion is a dispositive one, this Court is only authorized to determine the same on a report and recommendation basis. See 28 U.S.C. §636(b)(1). Based on the findings, authorities and legal discussion made on the record at the December 4, 2007 hearing, the Court hereby

RECOMMENDS that Defendant's Motion be granted in part and denied in part. The Motion should be granted to the extent that it seeks to suppress Defendant's December 28, 2006 statement to Christian Barrera relating to his alcohol consumption, the portable breath test Defendant later submitted to (including the results thereof) and the physical evidence found in and seized from his apartment that day. In all other respects, the Motion should be denied.

Dated this 4th day of December, 2007, at Pierre, South Dakota.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTEST:
JOSEPH HAAS, CLERK

BY: 
Deputy

(SEAL)

NOTICE

Failure to file written objections to the within and foregoing Report and Recommendations for Disposition within ten (10) days from the date of service shall bar an aggrieved party from attacking such Report and Recommendations before the assigned United States District Judge. See 28 U.S.C. § 636(b)(1).